

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8758 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

RAJENDRA @ BABU PARASNATH SHUKLA

Versus

DISTRICT MAGISTRATE NAVSARI

Appearance:

MR PM THAKKAR with MR SUNIL C PATEL for Petitioner
MS PUNANI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 27/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner herein challenges the order of preventive detention dated 24th September, 1998, made by the District Magistrate, Navsari, under the powers conferred upon him under sub-section (2) of section 3 of

the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act').

The petitioner is alleged to be a 'dangerous person' within the meaning of section 2 (c) of the Act, and his activities are prejudicial to the maintenance of public order. Two offences punishable under Chapter-XVI of the IPC have been registered against the petitioner. The first of the said offences was registered on 12th December, 1996, and is pending trial. The other one is registered on 30th March, 1998, and is pending investigation. The Detaining Authority has also relied upon the statements given by four witnesses in respect of the nefarious activities of the petitioner. The said statements have been recorded on 19th July, 1998 and 23rd July, 1998, and the same have been verified by the Detaining Authority on 2nd August, 1998. In respect of both the aforesaid offences, the petitioner was also arrested and released on bail on 27th December, 1996 and 28th May, 1998 respectively.

It is apparent that after the offences registered against the petitioner, and even after his arrest and release on bail, for a long time no action has been initiated against the petitioner. Even the statements of the witnesses have been recorded months after the last of the offences was registered and the petitioner was released on bail. After verification of the statements on 2nd August, 1998, the impugned order has not been made for a long time. The aforesaid delay has snapped the link between the cause of action and the action. The Detaining Authority has failed to explain the aforesaid delay. In absence of valid explanation such a long delay, should vitiate the action. The continued detention of the petitioner is, therefore, unwarranted.

Petition is, therefore, allowed. The impugned order dated 24th September, 1998 (Annexure-A to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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JOSHI